IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 25358 OF 2005

Date: 22.12.2005

BETWEEN:

Mohd. Hameed

…. PETITIONER

And

1. The District Collector, Hyderabad, and another.

…. RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 25358 OF 2005

ORDER:

The petitioner allegedly purchased an extent of 300 Sq. yards in Plot No.5A in S.No.101 of Saadath Nagar, Kandikal Village, Bandlaguda Mandal, Hyderabad District, with Door
No.18-1-544/5/A/1 under a notarized agreement of sale dated 13.4.1998 from one Mohd. Iqbal. The said premises is allegedly having electricity connection and has rooms with asbestos sheets. He alleges that the Subordinate Officials of the second respondent came to the premises on 25.11.2005 and tried to demolish the structures. The petitioner contends that without taking any action under the provisions of A.P. Land Encroachment Act, 1905 ('the Land Encroachment Act' for brevity) it is illegal for the respondent to evict him and to demolish the structures.

The second respondent has filed counter affidavit denying the allegations. It is stated that in the locality there is no such premises with house No.18-1-544/5/A/1, that the land in S.No.101 is covered by the provisions of Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Urban Land Ceiling Act'), that the same was declared to be the surplus vacant land of one G. Penta Reddy and his brothers, who

filed declaration, that after the Special Officer determined 80,900 Sq. Meters as surplus land in S.Nos.97, 101, 116, 145 and 146 of Kandikal Village, the local authorities took possession of the property and subsequently handed over to the departments like Housing Corporation, Schools, Hospital and Social Welfare etc. It is also stated that these allottees have commenced construction, which is in progress. Therefore sale by Iqbal Ahmed in favour of the petitioner does not convey any title, and the entire land in S.No.101 is in possession of the Government. It is also stated that in response to the enquiry by the second respondent, the Deputy Commissioner (Circle-I), Municipal Corporation of Hyderabad (MCH) sent a letter dated 14.12.2005 informing that the premises No.18-1-544/5/A/1 is not available in the assessment records maintained by the office. Therefore, there is no such premises.

At the time of arguments, the learned counsel for the petitioner has produced photographic evidence to show the presence of single room structures and one such room has
No.18-1-544/5/A/1. Armed with this evidence, the learned counsel for the petitioner Sri Syed Shareef Ahmed submits that even if the petitioner is in occupation of the Government land, unless and until he is issued a notice under the Land Encroachment Act, he cannot be evicted nor the revenue officials can demolish the structures.

The learned Assistant Government Pleader for Revenue (General) submits that the land is urban land ceiling surplus, which was taken over after following due process of law, and later handed over the same to various public authorities like, Housing Corporation, Social Welfare Department etc., who have started construction. The Mandal Revenue Officer has personally verified and found that the petitioner is not at all residing in the said premises and that these structures have come up recently by illegally encroaching upon the land. He therefore submits that the writ petition is not maintainable and in view of the communication of the Deputy Commissioner of MCH, an inference has to be drawn that there is no such premises in S.No.101 of Saadatnagar of Kandikal village.

There is a dispute as to the possession of the petitioner to the land allegedly in plot No.5A admeasuring 300 sq. yards. Though the petitioner filed a reply affidavit denying the counter averments, the contention of the Government that the land in S.No.101 is an urban land ceiling surplus, is not denied. Indeed, the various counter averments regarding proceedings under Land Acquisition Act remained uncontroverted. Further, admittedly, the petitioner purchased the property in S.No.101 under a notarized agreement of sale dated 13.4.1998 and the same is in contravention of the provisions of Urban Land Ceiling Act, is void and this Court cannot take cognizance of the said agreement of sale. Insofar as the petitioner is concerned, if the petitioner is in possession of the property, it is open to him to approach the Civil Court for appropriate relief. This disputed question of fact cannot be decided in this writ petition.

The Writ Petition, for the above reasons, is accordingly dismissed at the admission stage.

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(**V.V.S. RAO, J.)**

22nd December, 2005

Js.